

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION**

JOHN STEVEN CASON, SR.,

Movant,

v.

UNITED STATES OF AMERICA,

Respondent.

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Civil Action No. 7:05-cv-84 (HL)

Crim. Action No. 7:00-cr-16 (HL)

ORDER

The Recommendation of United States Magistrate Judge G. Mallon Faircloth, entered on February 27, 2006, is before the Court. The Magistrate Judge recommends that the Motion to Vacate, Set Aside, or Correct Sentence Pursuant to 28 U.S.C. § 2255 be denied as untimely. Movant, John Steven Cason, Sr., has filed written objections to the Recommendation, as permitted by 28 U.S.C. § 636(b)(1). The Court has thoroughly considered the objections and given de novo consideration to those portions of the Recommendation to which objection is made. Nevertheless, the Court is of the opinion that the Magistrate Judge's determination was correct, and that Cason's § 2255 Motion is untimely. The Court agrees with the Magistrate Judge that the limitation period for filing the § 2255 began to run on the date on which the time for filing an appeal lapsed without an appeal having been filed. *See, e.g., Mederos v. United States*, 218 F.3d 1252 (11th Cir. 2000); *Moshier v. United States*, 402 F.3d 116 (2d Cir. 2005). Nothing offered by Cason persuades the Court that a later limitation period should apply.

The Magistrate Judge recommended that the Motion be denied. The Court prefers to

dismiss § 2255 motions which are untimely because they fail to comply with the provisions of that Code Section and, therefore, are not properly before the Court for determination on the merits. Therefore, the Court accepts the Recommendation of the Magistrate Judge [Doc. 28] insofar as it finds that the Motion is untimely. The Motion to Vacate, Set Aside or Correct Sentence [Doc. 25] is hereby dismissed as barred by the statute of limitations.

SO ORDERED, this the 6th day of October, 2006.

s/ Hugh Lawson
HUGH LAWSON, JUDGE

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